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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)
in the 800 MHz Frequency Band)

PR Docket No. 93-144

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

and
Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)
800 MHz SMR)

PP Docket No. 93-255

To: The Commission

REPLY COMMENTS

Respectfully submitted,

RACOM, INC.
PARKINSON ELECTRONICS COMPANY, INC.
BANKS TOWER COMMUNICATIONS, LTD.
SPEED-NET
PEACOCK'S RADIO AND WILD'S COMPUTER
SERVICE, INC.
MOBILE RELAYS, INC.
RAYFIELD COMMUNICATIONS, INC.
NORTH SIGHT COMMUNICATIONS, INC.
TRI-COMMUNICATIONS, INC.
MORRIS COMMUNICATIONS, INC.
FRED BURG d/b/a FRED BURG COMMUNICATIONS
BEAM RADIO, INC.
SAVIN AND HILL COMPANY
SKYLINE COMMUNICATIONS, INC.
JAMES W. BAYNE d/b/a BAYNE SYSTEMS
BERT CARVER
MOBILE RADIO DISPATCH, INC.
RADIOWAVE COMMUNICATIONS, INC.
ANDERSON COMMUNICATIONS, INC.
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SUMMARY

The SMR Operators respectfully submit their Reply Comments in response to the Comments filed by various parties in the above-captioned proceeding.

Parkinson, Banks, Speed-Net, Peacock and Mobile Relays filed joint initial Comments in this proceeding. The Comments stated that the SMR Operators are concerned that in this proceeding the Commission may inadvertently tilt the playing field, making the SMR Operators unable to fairly compete. The Comments stated that the SMR Operators had reviewed a draft of PCIA's Comments in this proceeding, and the SMR Operators believed that the PCIA proposal represented the best solution to create a geographic licensing mechanism while protecting the rights of incumbent licensees. Therefore, the SMR Operators urged the Commission to adopt the PCIA proposal.

The Comments filed by the SMR Operators supported a form of wide-area licensing which allows existing licensees flexibility in site selection and growth possibilities, reduces speculative filings and reduces the Commission's burden to process applications quickly. However, the SMR Operators represented that they would be devastated by the mandatory relocation proposal submitted by Nextel.

Rayfield and Morris filed initial Comments prepared on their behalf by Pittencrieff Communications, Inc. Savin and Hill filed initial Comments through its President, C.T. Spruill, which did not support the Commission's proposal. Carver also filed initial

Comments which did not support the Commission's proposal. Rayfield, Carver, Morris and Savin and Hill have since become aware of PCIA's proposal and how each could actually participate in geographic licensing if adopted. Therefore, Rayfield, Morris and Savin and Hill now support the PCIA proposal as being fair to all SMR Operators.

Bayne, Anderson, Ten-Four, Burg, Beam, Skyline, Radiowave, North Sight, Mobile Radio Dispatch, Mobile UHF and Tri-Comm are similarly concerned with the future of their businesses as the result of the Commission's proposals and Nextel's request. Each company has reviewed PCIA's proposal and believes that the proposal presents the Commission with the best opportunity to create a fair and efficient licensing process.

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and

Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)
800 MHz SMR)

PP Docket No. 93-253

To: The Commission

REPLY COMMENTS

Parkinson Electronics Company, Inc. ("Parkinson"), Banks Tower Communications, Ltd. ("Banks"), Speed-Net ("Speed-Net"), Peacock's Radio and Wild's Computer Service, Inc. ("Peacock"), Mobile Relays, Inc. ("Mobile Relays"), Rayfield Communications, Inc. ("Rayfield"), North Sight Communications, Inc. ("North Sight"), Tri-Communications, Inc. ("Tri-Com"), Ten-Four Communications, Inc. ("Ten-Four"), Racom, Inc. ("Racom"), Bert Carver ("Carver"), Morris Communications, Inc. ("Morris"), Fred Burg d/b/a Fred Burg Communications ("Burg"), Anderson Communications, Inc. ("Anderson"), Beam Radio, Inc. ("Beam"), James W. Bayne d/b/a Bayne Systems ("Bayne"), Mobile UHF, Inc. ("Mobile UHF"), Savin and Hill Company ("Savin and Hill"), Radiowave Communications, Inc. ("Radiowave"), Mobile Radio Dispatch, Inc. ("Mobile Radio") and Skyline Communications, Inc. ("Skyline")(collectively the "SMR

Operators"), through counsel and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, respectfully submits their Reply Comments in response to the Comments filed by various parties in the above-captioned proceeding.

I. BACKGROUND

Parkinson, Banks, Speed-Net, Peacock and Mobile Relays filed joint initial Comments in this proceeding. The Comments stated that the SMR Operators are concerned that in this proceeding the Commission may inadvertently tilt the playing field, making the SMR Operators unable to fairly compete. The Comments stated that the SMR Operators had reviewed a draft of PCIA's Comments in this proceeding, and the SMR Operators believed that the PCIA proposal represented the best solution to create a geographic licensing mechanism while protecting the rights of incumbent licensees. Therefore, the SMR Operators urged the Commission to adopt the PCIA proposal.

It was stated that licensing on a geographic basis would be particularly advantageous to Parkinson and Mobile Relays, which already have wide-area licenses, and Speed-Net, which has a wide-area filing pending. However, it would not be feasible for Parkinson, Mobile Relays or Speed-Net to participate in geographic licensing as currently proposed by the Commission. Therefore, the Comments stated that it is critical that the Commission adopt the changes proposed by PCIA.

The Comments filed by the SMR Operators supported a form of wide-area licensing which allows ~~existing~~ licensees flexibility in

site selection and growth possibilities, reduces speculative filings and reduces the Commission's burden to process applications quickly. However, the SMR Operators represented that they would be devastated by the mandatory relocation proposal submitted by Nextel. The Comments also discussed the impossibility of re-tuning radios and noted that Parkinson and Peacock are participants in General Electric roaming networks. Therefore, thousands of users over a six state region would need to be reprogrammed in order to accommodate the re-tuning of just the Parkinson and Peacock systems. This logistical, costly exercise would benefit only Nextel.

The Comments filed by the SMR Operators also provided the Commission with detailed descriptions of how the Commission's plans with regard to channel blocks, geographic areas and auctions would impact each of the SMR Operators.

Rayfield and Morris filed initial Comments prepared on their behalf by Pittencrieff Communications, Inc. ("Pittencrieff"). Savin and Hill filed initial Comments through its President, C.T. Spruill, which did not support the Commission's proposal. Carver also filed initial Comments which did not support the Commission's proposal.¹ At the time, Carver, Rayfield, Morris and Savin and Hill were concerned with protecting their businesses. Rayfield, Carver, Morris and Savin and Hill have since become aware of PCIA's proposal and how each could actually participate in geographic

¹Carver and Savin and Hill are also part of the Speed-Net wide-area network.

licensing if adopted. Therefore, Rayfield, Morris and Savin and Hill now support the PCIA proposal as being fair to all SMR Operators.

Bayne, Racom, Anderson, Ten-Four, Burg, Beam, Skyline, Radiowave, North Sight, Mobile Radio Dispatch, Mobile UHF and Tri-Comm are similarly concerned with the future of their businesses as a result of the Commission's proposals and Nextel's request.² Each company has reviewed PCIA's proposal and believes that the proposal presents the Commission with the best opportunity to create a fair and efficient licensing process.³

II. REPLY COMMENTS

The SMR Operators have been severely impeded in the growth and development of their business by the significant backload of applications pending at the Commission. Further, application mills

²Racom has been an SMR operator since the service was created. Racom has operated a wide-area system with authority received from the Commission in 1982. Thus, Racom was the very first wide-area provider. Racom now operates more than 600 channels at over 100 transmitter sites serving approximately 6,000 mobile units and covering a population base of 10,000,000 people in a six state region. Bayne operates 10 800 MHz SMR channels in New York. Anderson operates 10 channels outside of Memphis, Tennessee. Ten-Four operates SMR systems in Northern California. Burg operates 5 SMR channels in the Fredericksburg, Texas area. Burg is also a part of the analog wide-area system which was addressed by Peacock in the initial Comments. Mobile UHF operates several large SMR Systems in the Los Angeles, California area. Beam operates 800 MHz systems in Puerto Rico and 900 MHz systems in Miami, Florida. Skyline operates 15 SMR channels north of Houston, Texas. Radiowave operates 800 MHz systems in California. North Sight operates 800 MHz SMR systems in Puerto Rico. Tri-Com operates 800 MHz SMR systems in Phoenix, Arizona. Mobile Radio Dispatch operates SMR Systems throughout central New Jersey.

³Racom, as a member of the PCIA SMRA Council, was a participant in drafting the PCIA proposal.

have depleted the pool of channels available to the SMR Operators for growth of their businesses. The SMR Operators are hopeful that the Commission will soon begin recovery of channels from unconstructed systems and enable the SMR Operators access to such spectrum.

The SMR Operators believe that the creation of a fair and efficient licensing mechanism should truly be the focus of the Commission's proceeding. This proceeding is not about how to create a third mega-carrier cellular company, for the Commission is not dealing with virgin spectrum, but instead is dealing with a thriving industry, already serving thousands of small and large businesses nationwide. Also, this proceeding should not be about creating a licensing mechanism for the benefit of a single operator.

The Budget Act does not ask or require the creation of another mega-carrier by the Commission under the guise of "spectrum efficiency". Five United States Senators, in a letter dated January 17, 1995 and addressed to Chairman Hundt, clearly stated what independent SMR Operators are wondering:

Given that each market in the nation already has two operating cellular systems and that the FCC will soon license three to six new PCS systems to serve each area, what evidence does the FCC have that an additional one to four new cellular-type SMR systems are needed in each Major Trading Area (MTA)?

The Commission's proposal to create additional mega-carriers will not provide the user-public with additional affordable service options. Rather, the Commission's proposal will eliminate the

independent SMR from the choices available to the public. The SMR Service has been a success because independent SMR operators have been able to offer a low-cost alternative to cellular prices. This cost differential is not based upon the fact that up until the creation of PCS there were only two cellular providers. Rather, the cost differential is based upon the lower infrastructure costs for the SMR provider. In addition, the independent SMR provider was not required to pay large auction fees for their licenses, thus again keeping the cost for building the system lower, which ultimately benefitted the public. Public policy is not served by doing harm to this existing, cost-efficient service.

Since the overwhelming majority of dispatch users do not need access to more than one or two typical SMR sites, SMR systems have been able to offer service at a fraction of the price of cellular service. As PCS systems are developed and constructed, the price differential will increase as PCS operators will need to recover their huge infrastructure costs, which includes the auction prices which licensees paid. Thus, the variety of levels of service should be maintained to maximize the customer service options.

This is not to say that no users need access to wide-area coverage. In fact, numerous wide-area analog SMR systems have been developed to provide service to those dispatch users which do need multi-system access. However, the Commission's proposal will have the effect of eliminating the option of using the inherently cost efficient type of system which the user desires.

**A. SMR Operators Are Not Thwarting
The Introduction Of New Technology**

Nextel classifies service providers such as the SMR Operators as "[e]xisting operators using 20-year old, inefficient technology [who] have not in the past and should not now be accorded the right to thwart the introduction of more efficient technology and new improved services."⁴ However, the record documents that Racom, Parkinson, Mobile Relays and Speed-Net have committed to huge construction projects with advanced technology equipment.

Further, current SMR trunked technology is not "inefficient". Trunking technology is one of the Commission's greatest success stories, and continues to provide an efficient service. It is, in fact, the success of this technology that allowed companies such as Nextel to be created. Further, analog SMR operations continue to update to offer new and improved services to customers. Many of the services which Nextel offers or plans to offer are currently offered by analog SMR systems where there is a customer demand.

The SMR Operators are not attempting to "thwart" technological innovation. Instead, the SMR Operators have been attempting to work with the Commission to arrive at a licensing mechanism which will allow the SMR Operators to implement their own technological innovation. However, Nextel's proposal allows only Nextel to be innovative. The proposal locks the balance of the SMR industry into a system which provides independent SMR operators with no hope of growing or expanding their businesses. It is not the SMR

⁴Nextel Comments at 9.

Operators that are "thwarting" technological innovation, however, Commission adoption of the Nextel plan will "thwart" technological innovation by the ~~entire~~ SMR industry.

Nextel's statement fails to consider the efforts of other SMR operators to implement the next generation of equipment. In addition to Speed-Net, Parkinson and Mobile Relays, Southern Companies (which is implementing a MIRS System), Industrial Communications and Electronics (which is also implementing a MIRS System), Racom (which is implementing an EDACS system), and other companies are investing millions of dollars in new equipment and technology.

B. Nextel's Definition Of "Wide-Area" Is Too Limited

In footnote 5 of its Comments, Nextel seeks to define "wide-area SMR" systems as:

... those that use a digital transmission technology in a low-power, multiple base station configuration incorporating frequency reuse and call hand-off and that are capable of providing high-capacity, two-way cellular-like mobile telephone, fleet dispatch and customized dispatch service over large geographic areas. Wide-area SMR base station in urban areas typically operate at less than 100 watts ERP and at less than 100 watts ERP and at less than 200 foot antenna heights.... Although some local SMRs use a series of high power base stations to provide wider-area or regional coverage, they do not employ spectrum efficient technologies with a frequency reuse architecture or call hand-off capability.

Nextel's proposed "definition" would limit geographic licensing to Nextel alone. However, Parkinson, Speed-Net, Mobile Relays, Racom and others provide or intend to construct systems which offer many of the same services over the same geographic

areas as Nextel.⁵ There can be no rationale that limits an applicant seeking a geographic license to Nextel's chosen technology.

Nextel's "frequency reuse" requirement to meet its threshold requirement unnecessarily excludes EDACS, Geotek's Frequency Hopping Multiple Access ("FHMA") technology (which uses high power sites) or any other technology which does not necessarily need frequency reuse. However, such technologies are efficient by any measure.

**C. The SMR Operators Adamantly Oppose Any
Mandatory Relocation Of Incumbent Licensees**

As stated in the SMR Operators' initial Comments, mandatory relocation benefits only Nextel, and penalizes every other operator. Even though Nextel is the only entity with spectrum to relocate systems, Nextel's Comments demonstrate that even Nextel has insufficient spectrum to accomplish this task.

In Chicago, where Nextel has one of its strongest channel positions, it still can not re-tune 16 of 65 existing SMR systems in Chicago. Thus, Nextel could not achieve its goal of contiguous spectrum in Chicago with a Commission mandate. However, it could be accomplished by Nextel's own recommendations of "... voluntary channel swaps, operating agreements, channel purchases and mergers..."⁶

⁵In addition, Banks has agreed to participate in the wide-area system proposed to be constructed by Spectrum Resources of the Northeast, Inc.

⁶Nextel Comments at 39.

The SMR Operators are not attempting to stop Nextel from achieving its goal. If Nextel can successfully obtain contiguous spectrum through "... voluntary channel swaps, operating agreements, channel purchases and mergers...", it should be permitted to utilize whatever technology it desires which does not interfere with other licensees. However, Nextel's success should not be accomplished by eliminating the majority of the SMR industry. Rather, it should be accomplished through the usual wisdom of the marketplace.

D. The SMR Industry Does Not Need Contiguous Spectrum To Compete

Nextel claims that "[w]ide-area SMRs must have access to exclusive-use, contiguous channels assigned on a geographic basis like those available to every other broadband CMRS competitor."⁷ However, contiguous spectrum is not a must for competitive systems to operate. The Comments of Southern Company, which is implementing a MIRS system, typify the response of the SMR operators:

The greatest unsubstantiated assumption of this proceeding is that contiguous spectrum, especially the upper 200 SMR channels, is needed for SMR to compete with cellular. First, wide-area SMR systems are not designed to compete head-to-head with cellular telephony, but rather will complement cellular service, reaching distinct parts of the mobile services market. Second, all 200 channels are not necessary to build a competitive wide-area system. Third, the digital design of wide-area SMR equipment does not require contiguous spectrum.⁸

⁷Nextel Comments at 2.

⁸Southern Comments at 6.

Ericsson Corporation, which is now selling its highly efficient EDACS technology, also does not believe that contiguous spectrum is necessary for a competitive mobile system.

In footnote 52 of its Comments, Nextel states that it must maintain a guardband on each frequency to preclude interference to adjacent channel, non-affiliated stations. However, when Nextel (then Fleet Call) requested its original waiver, Nextel stated that:

FCI [Fleet Call] has noted apparent concern in the private land mobile community regarding the increased potential for adjacent channel interference from these emissions in an ESMR system. FCI initially proposed a 16-mile separation between ESMR base stations and adjacent channel existing SMR base station to control adjacent channel interference. In addition, FCI could "engineer around" such difficulties with additional mileage separations and other engineering modifications.

As discussed above, FCI has now become aware of Motorola's new digital transmission technology that will conform to the digital emission mask described in Section 90.209(g) of the Rules. The benefit of this approach is that by occupying less than the full 25 KHz bandwidth, adjacent channel interference concerns are eliminated. This new equipment will also utilize TDMA architecture to achieve the equivalent of six voice channels from the occupied bandwidth. In other words, this digital technology will provide for even greater efficiency than originally projected without creating adjacent channel interference, while eliminating the need for a 16-mile separation.

Given the advantages of this approach, FCI no longer needs any restrictions on the ability of either present or future adjacent channel licensees to modify or move their transmitting facilities within the current specifications of the Commission's Rules. Thus, all

interference concerns of adjacent channel and second-adjacent channel licensees should be resolved. FCI is willing to incur additional expense to implement this new technology to better protect other licensees and to achieve even greater capacity increases.⁹

Nextel now apparently requests that the Commission create contiguous bandwidth to resolve adjacent channel problems which Nextel originally represented would not occur. However, creating contiguous spectrum for Nextel should not be the responsibility of the bulk of the SMR industry or the Commission.

E. The Relocation Pool Does Not Exist

The Commission cannot create a "relocation pool" as recommended by Nextel and SMR WON because no unused pool of channels exists. More importantly, SMR WON's proposal will harm the SMR Operators.

SMR WON suggests that this Relocation Pool could partially be created by recovering channels in excess of 50 that a current wide-area licensee does not have constructed at a transmitter site. However, SMR WON's ESMR channel recovery plan seriously disadvantages independent SMR operators which have obtained wide-area authorizations.

Parkinson, and Mobile Relays received their wide-area authority in 1994. Racom received authority for channel re-use in 1994. Speed-Net will receive their wide-area authority in 1995. To require Racom, Parkinson, Mobile Relays and Speed-Net to return unconstructed channels in one year totally negates their ability

⁹Comments of Fleet Call, Inc., FCC File No. LMK-90036, filed June 7, 1990 at pp. 7-8. (footnotes omitted).

to perform the time-consuming planning and construction which is necessary to implement a system which involves multiple interacting transmitter sites. Thus, the SMR WON plan actually will result in reducing competition to Nextel by recovering channels from legitimate independent wide-area licensees.

In the case of Speed-Net, the SMR WON plan would be particularly injurious. Speed-Net consists of a number of small operators in the same geographic area. Some Speed-Net participants have transmitter sites several miles apart from each other. The Speed-Net channels are highly interspersed and co-channelled with channels in wide-area systems licensed to Nextel and Motorola. Speed-Net will not receive its authority from the Commission until some time this year. It will take a significant time for Speed-Net, once it receives its authority, to work with co-channel licensees to resolve interference concerns and then plan and build-out the system. Speed-Net would be unable to have its construction plan completed and channels constructed in sufficient time to avoid losing channels under SMR WON's plan.

The SMR Operators should not lose channels because their authorizations were received only recently. However, SMR WON's proposal would take away from these independent operators the ability to compete with Nextel, a goal which SMR WON members seek to achieve.

III. CONCLUSION

The SMR Operators support the proposal contained in PCIA's Comments and urges the Commission to adopt the proposal. **WHEREFORE**, the SMR Operators respectfully request that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

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